



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 760	Assembly Substitute Amendment 1
<i>Memo published:</i> March 11, 2004 <i>Contact:</i> Joyce L. Kiel, Senior Staff Attorney (266-3137)	

2003 Assembly Bill 760 relates to removal of a pupil from class, any portion of school property, or a school-sponsored activity.

A. CURRENT LAW

1. Code of Classroom Conduct and Conduct Rules

a. Code of Classroom Conduct

Current law requires that, subject to 20 U.S.C. s. 1415 (k) (federal special education law relating to placement of a child with a disability in an alternative educational setting), each school board must have adopted a code of classroom conduct. The code of classroom conduct must include all of the following:

1. A specification of what constitutes dangerous, disruptive or unruly behavior or behavior that interferes with the ability of the teacher to teach effectively under s. 118.164 (2).
2. Any grounds in addition to those under subd. 1. for the removal of a pupil from the class under s. 118.164 (2).
3. The procedures for determining the appropriate educational placement of a pupil who has been removed from the class and assigned a placement by the school principal or his or her designee under s. 118.164.
4. A procedure for notifying the parent or guardian of a minor pupil who has been removed from the class under s. 118.164 (2). [s. 120.13 (1) (a) 1. to 4., Stats.]

Section 118.164, Stats., relates to removal of a pupil from class by a teacher and is discussed in item 2., below. The code of classroom conduct may provide different standards of conduct for different schools and may provide additional placement options under s. 118.164 (3), Stats., when a teacher removes a pupil from a class. [s. 120.13 (1) (a) (intro.), Stats.]

b. Conduct Rules

In addition to the code of classroom conduct, a school board may adopt rules pertaining to pupil conduct and dress in order to maintain good decorum and a favorable academic atmosphere. [s. 120.13 (1) (a) (intro.), Stats.] The application of such rules is not limited to the classroom.

2. Removal of Pupils From Class; Suspension; and Expulsion

a. Removal From Class by Teacher

Current law provides that, subject to 20 U.S.C. s. 1415 (k), a teacher may remove a pupil from the teacher's class if the pupil: (1) violates the code of classroom conduct adopted by the school board; (2) is dangerous, unruly, or disruptive; or (3) exhibits behavior that interferes with the ability of the teacher to teach effectively, as specified in the code of classroom conduct. [s. 118.164 (2), Stats.] (A "teacher" is defined for this purpose as a "person holding a license or permit issued by the state superintendent whose employment by a school district requires that he or she hold that license or permit." [s. 118.164 (1), Stats.])

If a teacher does so, the teacher must: (1) send the pupil to the school principal or his or her designee; (2) notify the school principal or the principal's designee immediately of the reasons for removal; and (3) within 24 hours after the removal, provide to the principal or designee a written explanation of the reasons for removal. [s. 118.164 (2), Stats.] In addition, as specified in the code of classroom conduct, there must be a procedure for notifying the parent or guardian of a minor pupil if a pupil was removed from class under these circumstances. [s. 120.13 (1) (a) 4., Stats.]

The principal or designee must place the pupil in one of the following: (1) an alternative education program; (2) another class in the school or another appropriate place in the school as determined by the principal or designee; (3) another instructional setting; (4) the class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class, and the teacher, the principal or designee determines that readmission to the class is the best or only alternative; or (5) another placement as provided in the code of classroom conduct. [ss. 118.164 (3) and 120.13 (1) (a) (intro.), Stats.] As noted above, the code of classroom conduct must include the procedures for determining the appropriate educational placement for a pupil removed from the class.

Current law specifies that this teacher removal provision does not prohibit a teacher who removed a pupil from a class or the school board, school district administrator, school principal, or their designees from disciplining the pupil. [s. 118.164 (3) (b), Stats.]

b. Suspension; Expulsion

Noncompliance with the code of classroom conduct or conduct rules may result in suspension or, under certain circumstances, in expulsion. [s. 120.13 (1) (a) 2. a. and (c) 1., Stats.]

3. Reasonable and Necessary Force for Removal Policy

Current law requires each school board to adopt a policy that allows *any* official, *employee*, or agent of the school board to use reasonable and necessary force against a pupil in certain limited circumstances specified in the statutes. One of those circumstances is using reasonable and necessary force to remove a disruptive pupil from: (a) a school premises; (b) a motor vehicle owned, rented, or consigned to a school; or (c) a school-sponsored activity. [s. 118.31 (4), Stats.]

B. ASSEMBLY SUBSTITUTE AMENDMENT 1 TO ASSEMBLY BILL 760

Assembly Substitute Amendment 1 to the bill would do the following:

1. Require that the code of classroom conduct discussed in item A., 1., a., above, also specify: (a) what behavior interferes with the ability of a teacher's assistant to perform his or her job effectively; (b) what behavior interferes with the ability of a school employee to perform his or her job effectively; (c) any grounds, in addition to dangerous, disruptive, or unruly behavior or interference with performing a job, that would warrant removal not only from class but also from school property or a school-sponsored activity; and (d) a procedure for notifying the parent or guardian of a minor child removed from school property or a school-sponsored activity.
2. Provide that, subject to 20 U.S.C. s. 1415 (k), an individual employed by a school district as a *teacher's assistant* may remove a pupil from class if the pupil: (a) violates the code of classroom conduct; (b) is dangerous, unruly, or disruptive; or (c) exhibits behavior that interferes with the ability of the teacher's assistant to perform his or her job effectively. If this occurs, the provisions relating to removal of a pupil from class by a teacher discussed in item A., 2., a., above, apply, except that, in a decision about placement options as discussed above, the principal or designee also must weigh the interests of the teacher's assistant who removed the pupil from the class before deciding to readmit the pupil to the class.
3. Provide that a teacher may remove a pupil from the teacher's class if the pupil violates the code of classroom conduct adopted by the school board. The substitute amendment then deletes reference to the teacher's removal authority for a pupil who is dangerous, unruly, or disruptive or who exhibits behavior that interferes with the ability of the teacher to teach effectively. Under s. 120.13 (1) (a) 1., Stats. (as amended by the substitute amendment), these must be part of the code of classroom conduct; thus, such behavior would be included in the general category of violating the code of classroom conduct. Moreover, under the revised code of classroom conduct, a teacher also would be able to remove from class a pupil who exhibits behavior that interferes with the ability of the teacher's assistant to perform his or her job effectively.
4. Provide that, subject to 20 U.S.C. s. 1415 (k), outside the classroom, a *school employee* may remove a pupil from any portion of a school property or from a school-sponsored activity that is supervised by the school employee if the pupil: (a) is dangerous, unruly, or disruptive; (b) exhibits behavior that interferes with the ability of the employee to perform his or her job effectively; or (c) there are other grounds for removal from school property or a school-sponsored activity as specified in the code of classroom conduct.

If such a removal occurs, the employee may send the pupil to the principal or designee. As soon as feasible, the employee must notify the principal or designee of the removal and provide the principal or designee with an explanation of the reason for removal. In addition, the code of classroom conduct must provide a procedure for notifying a minor pupil's parent or guardian if the pupil is removed from school property or a school-sponsored activity under these circumstances.

5. Specify that, similar to current law with respect to removal from class by a teacher, the removal provisions do not prohibit a teacher's assistant who removed a pupil from class or a school employee who removed a pupil from school property or a school-sponsored activity or the school board, school district administrator, school principal, or their designees from disciplining the pupil.

Legislative History

Assembly Substitute Amendment 1 was offered by Representatives Olsen and Pope-Roberts. It was adopted by the Assembly on a voice vote. The bill, as amended, was passed by the Assembly on a voice vote.

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